

**BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA**

GLORIA KANDLE,

Charging Party,

-v-

COLUMBUS SCHOOL DISTRICT,

Respondent.

Cause No. 0048011096

ORDER SUSTAINING
OBJECTION

On June 8, 2004, the Human Rights Bureau issued a Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to Sue in the above-captioned matter. Charging Party, Gloria Kandle (Kandle), filed objections with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 14, 2005.

In the Final Investigative Report (FIR), the Human Rights Bureau investigator determined a preponderance of the evidence did not support Kandle's assertion that her employer, Respondent, Columbus School District (District), had unlawfully retaliated after she had engaged in a protected activity.

Procedurally, the Commission considering this objection was comprised of three members. Commissioner Janine Pease was not present and, before the hearing, Commissioner Jack Copps, disqualified himself from the proceedings. *See Admin. R. Mont. 24.9.1711*. A majority of the membership constitutes a quorum to do business, however, a favorable vote of at least a majority is required to adopt any resolution, motion, or other decision, unless otherwise provided by law. *Mont. Code Ann. § 2-15-124(8)*.

After careful and due consideration, the Commission concluded that the Human Rights Bureau abused its discretion in the issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*. The Commission finds that the Human Rights Bureau investigation failed to adequately address how persons outside of Charging Party Kandle's protected class status (persons not engaging in a protected activity) were treated during the same time frame.

IT IS HEREBY ORDERED, that Charging Party's objection is sustained. When the Commission sustains the objections to the dismissal of a complaint, it will reopen the case by remanding it to the department. *Admin. R. Mont. 24.9.1714(4)(b)*.

DATED this ____ day of March 2005.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on March ____ 2005.

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Montana Human Rights Bureau